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9
10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ANTOINETTE JAMES HOLMES,

17 Defendant.

Case No. 2:21-CR-00091-TOR-1

Government's Objections to Draft
Presentence Investigation Report

18 Plaintiff, United States of America, by and through Vanessa R. Waldref, United
19 States Attorney for the Eastern District of Washington, and Michael J. Ellis, Assistant
20 United States Attorney for the Eastern District of Washington, submits the following
21 objections to the draft Presentence Investigation Report, ECF No. 88, filed on May 25,
22 2022.

23 The draft Presentence Investigation Report states that there are no "identifiable
24 victims" of the Defendant's offense. *See id.* at ¶¶ 39, 140, 141. The Government
25 disagrees. As noted in the draft Presentence Investigation Report, at least three people
26 were directly harmed by the Defendant's conduct: G.D. – who died of an overdose
27 after the Defendant distributed pills containing Fentanyl to him, *see id.* at ¶¶ 15–19,
28 C.A. – a toddler who overdosed after the Defendant distributed pills containing
Fentanyl to co-defendant Reigan Allen and the couple smoked the pills in the child's
presence, *see id.* at ¶ 20, and D.K. – a person to whom the Defendant distributed pills

1 containing Fentanyl, thereby furthering D.K.'s addiction, who later died of a drug
2 overdose. *See id.* at ¶¶ 30, 35–37.

3 Under the Crime Victims' Rights Act, a "crime victim" is defined as "a person
4 directly and proximately harmed as a result of the commission of a Federal offense."
5 18 U.S.C. § 3771(e)(2)(A). Further, under the Mandatory Victims Restitution Act, a
6 "victim" is defined as "a person directly and proximately harmed as a result of the
7 commission of an offense for which restitution can be ordered including, in the case of
8 an offense that involves as an element a scheme, conspiracy, or pattern of criminal
9 activity, any person directly harmed by the defendant's criminal conduct in the course
10 of the scheme, conspiracy, or pattern." 18 U.S.C. § 3663A(a)(2).

11 The above three individuals – G.D., C.A., and D.K. – all meet the above
12 standards: none of the three would have been harmed but for the Defendant's drug
13 distribution conspiracy. G.D. would be alive, C.A. would not have suffered the
14 potential lifelong consequences of experiencing a drug overdose while a toddler, and
15 D.K. may not have overdosed had the Defendant not facilitated his addiction. All were
16 accordingly "harmed as a result" of the Defendant's Fentanyl distribution conspiracy.
17 The Defendant does not dispute the above, having agreed in the Plea Agreement that
18 "at a minimum, C.A. and D.K. qualify as victims to whom restitution is owed." *See*
19 ECF No. 80 at 9.

20 As such, the Government requests that the Presentence Investigation Report be
21 amended at Paragraphs 39, 140 and 141 to note that G.D., C.A., and D.K. are all
22 "identifiable victims" of the Defendant's offense.

23 Dated: June 8, 2022.

24 Vanessa R. Waldref
25 United States Attorney

26 s/Michael J. Ellis
27 Michael J. Ellis
28 Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Douglas D. Phelps

s/ Michael J. Ellis
Michael J. Ellis
Assistant United States Attorney